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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,947	09/17/2001	Bjorn Hamsten	ALBIHN-407	2562

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EXAMINER

SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/857,947

Applicant(s)

HAMSTEN, BJORN

Examiner

Rashmi K. Sharma

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a control device, means for shifting, a motor controlled by commands from the control device, means for controlling the speed of each unit and wherein the plurality of selectable paths are vertically spaced must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 25 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It appears that "means for controlling the speeds of each said unit" recited in claim 25, is already limited to "a control device" as recited in claim 21. Further clarification and/or correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the properties" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites "...along conveyor means.". It is unclear as to exactly structure what the Applicant intend to mean. Is it the incoming feeder track, the outgoing feeder

track, the diverter or the conveyor on which the diverter is diverting the articles. Further clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-26, 28, 29, 31-34, 36, 37, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonnet (U.S. Patent number 5,988,356).

Bonnet discloses an apparatus for controlling units within a continuous flow from at least one incoming feeder track (14a, 14b) into at least one outgoing feeder track (16a-16d) comprising at least one shifting device (40) pivotable about an axis (read abstract) for controlled shifting of the flow from the incoming feeder track into a plurality of horizontally spaced, parallel, selectable paths of the outgoing feeder track (read column 8 lines 31-61), a control device (96) capable of controlling speeds of each unit and of determining proper shifting of the shifting device (40), wherein the control device (96) allows for separation of the units with respect to one another in a longitudinal direction of flow (read column 4 lines 13-19), the separation allowing for the controlled shifting without arresting the continuous flow, wherein the control device (96) operates in dependence of the speed of each unit from the incoming feeder track (14a, 14b) and the properties of the shifting device (40) and the outgoing feeder track (16a-16d),

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means for shifting (44, 50, 82, 90) the shifting device (40), wherein the means for shifting the shifting device (40) is a motor (82, 90) controlled by commands for the control device (96), means for controlling the speeds of each unit operates to accelerate (via variable speed motors) each of the units along conveyor means (14, 26, 28 or 16), and wherein the incoming feeder track (14a, 14b) is arranged for feeding units at a variable speed (read column 4 lines 13-19) while the shifting device (40) is arranged for a constant speed (read column 8 lines 8-21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet (U.S. Patent number 5,988,356).

Bonnet as disclosed above, fails to explicitly disclose each unit being accelerated along the shifting device to a speed exceeding the speed of the flow from the incoming feeder track.

However, Bonnet does disclose an adjustable and variable speed control system (read column 8 lines 8-21), based on input information (shape, weight, etc.) from sensors 98 and/or 100 in order to determine the speeds of the each portion of the

conveying system to be able to maintain a timed and continuous flow of all of the articles as a whole.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to accelerate the shifting device to a speed exceeding the speed of the flow from the incoming feeder track in order to provide for the timed conveyance of smaller, lighter articles. Since Bonnet's conveyor system is adjustable and provides for slowing down the system for heavier articles, then the opposite would necessarily be true as well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet (U.S. Patent number 5,988,356) in view of Bonnet (U.S. Patent number 6,227,377).

Bonnet'356 as disclosed above, fails to show selectable paths being vertically spaced.

Bonnet'377 does disclose vertically spaced selectable paths (see Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add or modify Bonnet'356 invention to provide for vertically

spaced selectable paths as taught by Bonnet'377, as both are a matter of design choice. Providing for a variety of selectable paths within a conveyor sorting system is very well known in the art and one having ordinary skill would be reasonably apprised of utilizing either vertically or horizontally spaced selectable paths.

Response to Arguments

Applicant's arguments with respect to claims 21-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GENE O. CRAWFORD
PRIMARY EXAMINER